IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 178 (S/B) of 2004

Rukam Das … Petitioner

Versus

State of Uttaranchal and another … Respondents

Hon'ble M.M. Ghildiyal, J.
Hon'ble Rajesh Tandon, J.

Heard Sri Kailash Tewari learned counsel for the petitioner and learned Standing Counsel.

By the present petition, the petitioner has challenged the order of transfer dated 08.06.2004 passed by Director, Rajaji National Park, Dehradun (respondent no.2).

Brief fact of the case are that the petitioner is at present posted at Motichoor Range District Dehradun as Forest Range Officer. The grievance of the petitioner is that he was transferred from Kasarau Range, to Motichoor Range only nine months back i.e. on 25.08.2003. again by order dated 08.06.2004 he has been attached with the office of Director, Rajaji National Park, Dehradun. The petitioner has further submitted that he has been attached to Director, Rajaji National Park, Dehradun to give undue benefit to another person who has been posted in place of him though he was Deputy Ranger. He has further submitted that the transfer of order against the policy decision of the Government. Accordingly to transfer policy there should be no transfer from Durgam Kshetra to Sugam Kshetra (difficult place to convenient place) within 3 years and as such since the petitioner has been transferred only within 9 months. It is in violation of the transfer policy.

The transfer order has been passed on the administrative ground. We find no illegality in the transfer order which is passed in the public interest and in administrative exigency.

The Hon'ble Supreme Court in the case of **Shilpi Bose Vs State of Bihar AIR 1991 Supreme Court 532** has held as that the policy cannot be challenged by way of writ petition under Article 226 of the Constitution of India. Even after the transfer order is passed in violation of executing instructions or orders, the court ordinarily should not interfere with the orders instead affected party should approach the higher authorities in the Department.

The contention of the petitioner is that neither there was any complaint against the petitioner nor he was stayed at the present place for more than 3 years and as such there was no administrative exigency in transfer of the petitioner within 9 months.

In view of the aforesaid circumstances, we direct the petitioner to make a representation to the competent authority within a period of one week from the date of issue of certified copy of the order and thereafter competent authority shall decide the representation within two weeks from the date of the receipt of the representation of the petitioner. The transfer order dated 08.06.2004 and 17.06.2004 shall remain in abeyance for a period of three weeks from the date of issue of certified copy of the order.

With these directions, the writ petition is disposed of.

(Rajesh Tandon, J.) **(M.M. Ghildiyal, J.)**

28.06.2004
ASWAL